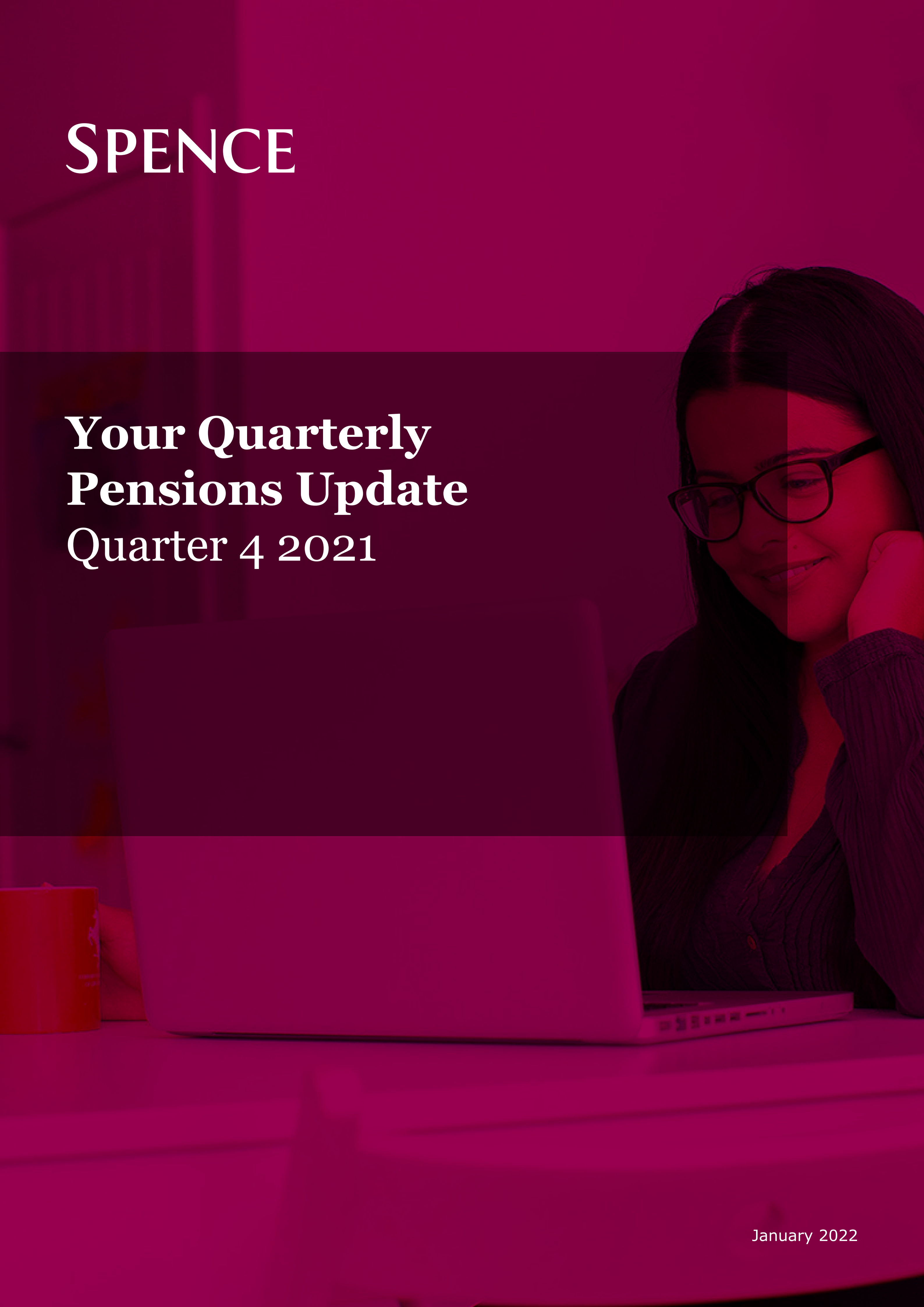


SPENCE

Your Quarterly Pensions Update

Quarter 4 2021

January 2022

What's inside?

Welcome to your Quarterly Pensions Update

The purpose of this report is to update sponsors and trustees with recent pensions industry changes in the quarter.

For your convenience, Spence has summarised the key developments and highlighted the necessary actions sponsors and trustees may need to take.

The report combines brief written comment with links to any further relevant information and any deadlines you should be aware of. We trust you will find the update useful and informative. If you require further information about how any of the topics covered might impact on your scheme specifically, please get in touch with hugh nolan@spenceandpartners.co.uk or your usual Spence contact.

2021 Q4 Investment Update

Global equities had a volatile quarter but finished close to record highs lead by US stock and strong corporate earnings. This is despite growing fears that the new Covid-19 variant, Omicron, would reduce economic growth and central banks would increase rates sooner than previously expected to combat rising inflation. Inflation has been rising across the globe with Eurozone inflation increasing to the highest level since 2008; Germany's inflation is at a 30-year high and US inflation is at a 39-year high.

Emerging market equities and debt underperformed as the US dollar strengthened, making USD debts more expensive. The U.S. dollar increased after the Federal Reserve indicated it would be raising rates in 2022 to combat inflation pressures. China was one of worst-performing markets as fears new lockdown restrictions would be instigated following the rapid spread of the new Covid-19 variant.

The threat of new Covid-19 travel restrictions sent the price of oil 1% lower in the fourth quarter to $78 a barrel. Industrial metals performed well as the global economic recovery gathered pace.

Higher rated bonds posted negative performance as markets began to price a faster pace of interest rate rises from central banks. High yield bonds had a positive return as spreads declined.

The Bank of England increased the base rate by 0.15% to 0.25% however over the quarter long-term nominal UK gilt yields decreased c.0.18% due to increased Covid-19 fears from the Omicron variant. All else being equal, the move in gilt yields acts to increase the value placed on pension schemes' fixed liabilities.

Despite shorter term inflation forecasts rising, long-term (20 year) inflation expectations were broadly unchanged over the volatile quarter. All else being equal, this will not change the value placed on pension schemes' liabilities.

Actuarial Update Q4 2021

Regarding the long awaited revised Code of Practice on scheme funding, the news is there is no news…except to report on yet another delay. The Pensions Regulator (TPR) has confirmed it will put back the second consultation on the draft of the new code until "late Summer 2022" so it has sufficient time to consider the findings from the Department for Work and Pensions' (DWP) consultation due in the spring.

TPR's annual report on defined benefit (DB) occupational pension schemes was published on 14 December 2021 and contains some interesting statistics, as detailed below.

The DB universe continues to shrink and is heavily dominated by small schemes i.e. those with fewer than 1,000 members. Just over 10 million people are members of a DB scheme, of whom just under 45% are pensioners.

The last 10 years has seen a significant increase in the number of schemes that are now closed to future accrual. These schemes now make up just under half of the DB universe. This shift in the landscape is likely to result in an acceleration of consolidation including schemes moving to master trusts, consolidators or buying out with insurance companies.

Data used:	Pension Schemes Register at 31 March 2021
Number of schemes:	5,522 and falling (down from 7,297 in 2012)
Large schemes (>5,000 members):	Make up 7% of the schemes, but 75% of all members
Small schemes (<1,000 members):	Make up 80% of the schemes, but only 10% of all members
Open schemes:	554 schemes 2,173,828 members
Closed to New Members (CTNM):	2,096 schemes 4,769,442 members
Closed to Future Accrual (CTFA):	2,674 schemes 3,270,996 members
Winding up:	208 schemes 151,051 members

ACTION

While another delay to the revised Code of Practice on scheme funding is unwelcome, it is not surprising given the circumstances, with Covid-19 continuing to dominate Parliamentary time. However, the direction of travel is well known, and trustees and sponsors should start preparing for life under the new code now. If they haven't already done so, trustees and sponsors should begin working with their advisers on setting long-term funding targets and devising journey plans to reach their ultimate goals.

Helpful Links

DB funding code consultation | The Pensions Regulator

DB defined benefit annual report | The Pensions Regulator

Budget and Finance Bill 2021

On 27 October 2021, the Chancellor of the Exchequer, the Rt Hon Rishi Sunak MP, announced plans to revise pension tax administration relief to remove disparities in 'take-home' pay; to consult on the charge cap for defined contribution pension schemes; and to temporarily suspend the earnings element when up-rating State Pensions.

On public sector pensions, a power is included in the Finance Bill 2021/22 to enable changes to the pensions tax regime to be made by secondary legislation to ensure that the remedy for the unlawful age discrimination identified in the McCloud judgment can work retrospectively. The measures will apply to all individuals affected by the unlawful discrimination and relate to compensation an individual may receive.

No reforms were proposed in relation to the system of pensions tax relief and the lifetime allowance will remain frozen until 2025/26 at £1,073,100, as announced at the Spring 2021 Budget.

As announced by the Prime Minister on 7 September 2021, the government has legislated for a new Health and Social Care Levy (the Levy), to fund an historic investment in the NHS and social care. The Bill introducing the Levy received Royal Assent on 20 October 2021, becoming the Health and Social Care Levy Act 2021. The Act contains the provisions for the temporary 1.25% increase in NICs for 2022–23 and the introduction of the Levy from 6 April 2023.

The Finance (No.2) Bill was published on 4 November 2021. It includes measures announced in the Autumn Statement and Budget, as well as a previously announced increase to the Normal Minimum Pension Age (NMPA) from 55 to 57 with effect from April 2028.

ACTION
See separate articles on DC update and increase to NMPA.

Helpful Links

Autumn Budget and Spending Review 2021: documents - GOV.UK (www.gov.uk)

Written statements - Written questions, answers and statements - UK Parliament

Health and Social Care Levy Act 2021 - Parliamentary Bills - UK Parliament

Finance (No. 2) Bill - Parliamentary Bills - UK Parliament

Pension Scheme Health Check 2021

Checking the overall health of your pension scheme against developments in 2021

1. Administration

New 'Conditions for Transfers'

Regulations, effective 30 November 2021, introduce new powers for trustees to protect their members from scams in the exercise of those members' statutory right to transfer pension benefits. The Pensions Regulator has published related guidance to help trustees understand the new powers to halt suspicious transfers. The guidance explains how checks should be carried out against new transfer conditions, and proceeding with and refusing transfer requests from scheme members.

ACTION
Trustees should read the new guidance on transfers, and check with administrators to ensure procedures and templates have been updated.

2. Defined Benefit

The Pensions Regulator has published its annual funding statement confirming the continued importance of trustees monitoring the employer covenant, particularly in light of Brexit and Covid 19. The statement also confirms that the Regulator does not expect its new defined benefit (DB) funding code to come into force until 2022 at the earliest.

ACTION
Trustees should note that a second consultation on the new funding code is not expected until "late summer 2022".

3. Defined Contribution

'VfM' assessments and reporting of net investment returns

For DC schemes with assets of less than £100 million, a new value for members (VfM) assessment requirement will apply for the first scheme year which ends after 31 December 2021. For all schemes, the requirement to publish net investment returns will apply in relation to the first scheme year which ends after 1 October 2021.

ACTION
For scheme year ends after 31 December 2021, trustees must comply with the new VfM requirements and should build this into their processes for Chair Statements.

4. Guaranteed Minimum Pensions and GMP equalisation

Pension Schemes (Conversion of Guaranteed Minimum Pensions) Bill

The Pension Schemes (Conversion of Guaranteed Minimum Pensions) Bill, a private members bill, proposes to amend provisions in the Pension Schemes Act 1993 in order to allow occupational pension schemes to convert GMP benefits into other scheme benefits. The amendments aim to simplify and clarify how these provisions operate and to reassure the pension industry that they can carry out their legal duties to equalise for the effect of GMPs using the methodology that government has published.

ACTION
Schemes with GMPs accrued between 1990 and 1997 should now be taking action to address inequalities arising from those GMPs. The Pensions Regulator has GMP equalisation on its radar. At some point, it may even ask schemes for updates through the pension scheme return.

5. Investment

Climate Change and Governance requirements

New trustee climate change risk governance and reporting duties introduced under the Pension Schemes Act 2021 started to apply to the trustees of schemes with assets of £5 billion or more and of master trusts from 1 October 2021, and will apply to the trustees of schemes with assets of £1 billion or more from October 2022. There will then be a review after that date to decide whether they should be extended to the trustees of smaller schemes.

A recent consultation seeks views on draft non-statutory guidance explaining best practice in relation to the Statement of Investment Principles and draft statutory guidance explaining the DWP's expectations across the Implementation Statement.

ACTION
Trustees of schemes in scope should ensure compliance with new climate change governance and reporting requirements, whilst keeping a watching brief on environment, social and governance (ESG) developments. Trustees of schemes that need to produce a Statement of Investment Principles (SIP) or Implementation Statement (IS) should take into consideration the best practice guidance when reviewing or revising their SIPs and ISs.

6. Pension Protection Fund

2022/23 levy rules

The PPF has finalised its 2022/23 levy rules and confirmed that measures introduced to help schemes and employers in 2021/22 will remain in place. In particular, the PPF has confirmed that it intends to offer another 90-day payment window for schemes affected by Covid-19 in relation to 2021-22 levy invoices issued this autumn. The window was offered for the first-time last year and the PPF is also planning to offer it for invoices issued in autumn 2022.

ACTION
Where appropriate, steps to reduce the PPF risk-based levy should be implemented by the relevant deadline(s).

7. The Pensions Regulator ("TPR")

Single code of practice

The Pension Regulator's (TPR's) 15 existing codes of practice are set to be transformed into a new online code, which is intended to provide "one up-to-date and consistent source of information on scheme governance and management". The new code, expected to be published by summer 2022, will consist of 51 shorter, topic-based modules.

The new code will incorporate changes introduced by the Occupational Pension Schemes (Governance) (Amendment) Regulations 2018. These relate to "effective systems of governance" (ESoG) and the "own risk assessment" (ORA). All trustees must operate an ESoG and the trustees of a scheme with 100 members or more must also carry out and document an ORA of their scheme.

New TPR powers

On 1 October, various changes were made affecting TPR's powers in terms of criminal sanctions, financial penalties, new ground for issuing Contributions Notices and extended jurisdiction in relation to information gathering.

ACTION
Trustees should look out for the new Code in 2022, bearing in mind that they may need to undertake an Own Risk Assessment within 12 months of the Code coming into force. Employers and trustees, particularly of DB schemes and sections, should make sure that they understand the reforms to TPR's powers and take advice and training as needed.

Rectification Case: Mitchells & Butler

In this case, the High Court upheld a claim by the Trustee of the Mitchells & Butlers Pension Plan to rectify the pension increase provisions in three successive deeds.

Background

The Trustee sought rectification of a mistake made in pension plan deeds in 1996, 2002 and 2006 that gave the power to select pension pay increases to the Company, Mitchells & Butlers ("M&B") and removed the power from the Trustee.

Decision

The Judge found that amendments introduced in 1996 in favour of the Company were a mistake and as a result ordered rectification. Restatements of these provisions in 2002 and 2006 were also held to be mistaken and rectified.

The Judge held that, in any event, the amendments were invalid because the Plan's actuaries had not been properly consulted as required by the Plan rules.

M&B accepted that there was an error in the drafting of the 1996 and 2002 deeds but argued that, when it became Principal Employer in 2003, it did so as a "bona fide purchaser for value without notice" thereby enabling it to avoid the claim to rectify the 1996 and 2002 deeds. The judge rejected this argument, noting that there was 'considerable overlap of directors' between the companies and that M&B could not be said to be a 'purchaser' as there was no new money.

Comments

One of the legal firms involved in this case, Gowling WLG, has highlighted the novel aspects of this judgment:–

- The Court rectified a pension increase rule so as to take away an employer power and replace it with a trustee power. Rectifying so as to change the identity of the holder of a power away from the party which appears to possess it (i.e. not just rectifying to change the contents of the power) is unusual.
- This is another case in which a court has been prepared to order rectification of a number of successive deeds that contained the same mistake even when it could not be shown that the parties had specifically addressed their minds to the provision it was later argued was mistaken.
- M&B appears to be the first case in which a court had to consider a defence to rectification based on the argument that an entity became the scheme's Principal Employer as a bona fide purchaser.
- Where a scheme's amendment power requires consultation, that consultation must be properly carried out, with the person being consulted being directed to any changes being made.

More generally this case is a useful reminder of the amount of evidence that is needed to prove rectification. The weight of evidence in support of the Trustee's case (19 witnesses provided evidence) was described as overwhelming.

Helpful Links

Mitchells & Butlers Pensions Ltd v Mitchells & Butlers Plc [2021] EWHC 3017 (Ch) (12 November 2021) (bailii.org)

Normal Minimum Pension Age (NMPA) to be increased from 55 to 57 from 2028 under Finance (No.2) Bill 2021

Key points

— Under the Finance Bill, normal minimum pension age (NMPA) will be increased from 55 to 57 from 6 April 2028.

— Provision exists to protect members of registered pension schemes who, before 4 November 2021, have a right to take their benefits under those schemes at or before the existing NMPA.

— In addition to exempting members of certain uniformed service pension schemes from the increase, the Bill introduces a new protection framework for block and individual transfers to reduce restrictions on retaining a protected pension age following a transfer.

The detail

The NMPA was introduced in April 2006. Under Finance Act 2004, a registered pension scheme must not normally pay any benefits to members until they reach NMPA, unless they are retiring due to ill-health. Tax legislation currently provides that, on or after 6 April 2010, NMPA is 55 (before 6 April 2010 it was age 50).

In 2014, following the consultation on 'Freedom and Choice in Pensions', the government said it would increase NMPA to 57 in 2028. A consultation on the implementation of the increase and a proposed framework of protections for pension savers who already have a right to take their pension at a pre-existing pension age was completed on 22 April 2021.

Under the draft legislation in the Finance (No.2) Bill, a member of a pension scheme with a previously protected pension age (PPA) of less than 50 or 55, will see no change in respect of their current PPAs.

Also, members of certain uniformed public service pension schemes will be exempt from the increase in 2028.

For other members, the Bill introduces an increase in the NMPA to 57 from 6 April 2028.

However, an individual who, immediately before 4 November 2021 (or following the completion of a transfer, provided that it was requested before that date), is a member of a scheme, whose rules on 11 February 2021 conferred an unconditional right to draw benefits before age 57, will qualify for an age 55 PPA. Where these conditions are met, a member's right to draw benefits before 57 will be maintained in respect of both existing rights and future rights that accrue under the scheme.

Also, members will retain a PPA on transferred and future rights following a block transfer to a new arrangement.

In the case of individual transfers, it is more complicated:

— if a member transfers on or after 4 November 2021, the PPA will carry across to the new arrangement but protection will apply only to transferred rights and not to any future accrual; and

— if a member transferred before 4 November 2021 from a scheme where an unconditional right was held into a scheme where an unconditional right did not apply then the PPA is lost.

There may be some transitional issues. For example, an individual who does not have a PPA and, on 5 April 2028, will have reached age 55 and has started but not completed the process of taking pension savings before the change in NMPA. The government will provide further advice on the proposed transitional arrangements and provisions in "due course".

ACTION
Consider a member communication at the next convenient opportunity e.g. pension scheme newsletter or benefit statement.

Environmental, Social and Governance Update

Late 2021 was a very significant period for Environmental, Social and Governance (ESG) discussions; notably because of November's United Nations Conference of Parties 26 (COP 26) where delegates from across the globe came together to discuss how we can tackle climate change. At the conference there were significant future commitments made to reduce methane emissions, deforestation, and coal usage. Within financial services, the Glasgow Financial Alliance for Net Zero, an alliance covering a broad range of services from pensions funds to banks to credit agencies, announced that more than $130tn of capital has been committed. As a result, over 40% of the world's assets are signed up to reducing emissions by 50% over the next decade and achieving net zero by 2050.

As climate change hit the top of headlines, government agendas and chats around the dinner table, the UK pensions sector also got involved. We continue to see more consultations and more guidance around climate related risks, and opportunities, and broader ESG factors. Here are a few of the highlights over the quarter:

TPR Governance and reporting of climate-related risks and opportunities

In Q4, TPR published its guidance on Governance and reporting of climate-related risks and opportunities. This sits alongside the DWP statutory TCFD guidance. At this point in time, schemes with more than £5bn assets fall under these requirements, and from October 2022 schemes with more than £1bn will also be covered. TPR's guidance does not impose any new requirements on trustees and is intended to set out the regulatory approach and help trustees to comply with their legal duties. TPR's approach aims to recognise where schemes have made a genuine effort to collect as much of the necessary information and data as they can, and have recorded the steps they have taken to do so. The guidance covers the following areas: Governance, Strategy and scenario analysis, Risk management, Metrics, Targets and Publishing the report.

DWP Climate and Investment Reporting Consultation

In October, the DWP announced its snappily named consultation - Climate and investment reporting: setting expectations and empowering savers. The consultation considers further requirements on larger pensions schemes, building on the recently introduced TCFD reporting. In particular, the consultation focuses on the Paris alignment of investment portfolios, i.e. the extent a scheme's investments are aligned with the goal of limiting the increase in global average temperatures to 1.5ºC above pre-industrial levels.

Defined Contribution Fee Cap

Defined contribution pensions are ideally positioned for responsible investing due to the aligned long-term time horizon and a membership profile of younger generations who are becoming increasingly interested in ensuring their money is invested in a socially and environmentally aware manner. DC schemes have a 75bp fee cap on investment manager fees which is intended to protect savers from exorbitant costs; however, this can have the negative consequence of being prohibitive to investment in certain asset classes such as green infrastructure. The UK Chancellor announced, in the Autumn budget, that the UK government will be reviewing the charge cap and considering a potential relaxation for investment in more highly innovative areas of the economy. Although not directly for ESG purposes, the ESG community taken this news positively.

PLSA ESG & Stewardship: A Practical Guide to Trustee Duties

The Pensions and Lifetime Savings Association (PLSA) have produced an ESG & Stewardship guide for Trustees . This is aimed at all schemes, regardless of size, and provides Trustees with both an introduction to the topic and helpful guidance at practical ESG implementation. This includes guidance around training and education, agreeing investment beliefs, policy setting, implementation, monitoring and reporting.

Helpful Links

Climate change governance guidance | The Pensions Regulator

Climate and investment reporting: setting expectations and empowering savers - GOV.UK (www.gov.uk)

ESG-and-Stewardship-A-practical-guide-to-trustee-duties-2019-v2.pdf (plsa.co.uk)

DC Update: Update

The DC landscape continues to be reshaped at a pace.

Regulations now require all relevant schemes (broadly, schemes used for auto-enrolment) to publish net investment (performance) returns for their default(s) and self-selected funds. Net investment returns refers to the returns on funds minus all transaction costs and charges. The initial focus of these regulations is on schemes with assets of less than £100 million and information on net investment returns must be included in the Chair's Statement for the first scheme year ending **after 1 October 2021**, and published on a publicly available website.

Statutory guidance on the new Value for Members (VfM) assessment came into force **from 31 December 2021** requiring trustees of specified schemes (unless they are in the process of winding-up) to carry out a more detailed VfM assessment. This VfM assessment **must** involve a comparison of reported costs and charges and fund performance (net investment returns) with three other schemes, and a consideration of key governance and administration criteria. Trustees are free to choose their own comparison schemes and may wish to make use of The Pensions Regulator's (TPR) list of authorised master trusts.

The outcome of this assessment must be explained in the annual Chair's statement and published on a publicly accessible website. The outcomes must also be reported to TPR via the annual scheme return.

Trustees of affected schemes will need to begin collating the information they need to conduct the more detailed VfM assessment, particularly if their scheme year ends during the first half of 2022. They will need to engage with their advisers for additional comparative information and with their administrators to assess governance and administration.

For many schemes, the VfM assessment (in particular, the first one completed) will be a substantial piece of work, involving several scheme stakeholders. So, 'starting early' is recommended. Trustees should also discuss the new requirements with their pension scheme sponsoring employers, as plans for the scheme may impact the actions that trustees need to take.

Separately, TPR and the Financial Conduct Authority (FCA) issued a joint discussion paper, entitled 'Driving Value for Money in Defined Contribution Pensions'. Our response included the importance of recognising the value sponsoring employers provide in creating better member outcomes, such as the benefits of salary sacrifice for contributions and higher contribution tiers, over and above the auto-enrolment requirements. The Association of Consulting Actuaries (ACA) strongly argued that accumulation and decumulation phases must be considered together. While the Association of Professional Pension Trustees (APPT) said that, second only to the amount of contributions paid, an Effective System of Governance (ESoG) is the most important factor that contributes to long-term value for money.

On the subject of an ESoG, trustees need to start planning their activities to evidence their ESoG in 2022 and, for schemes with 100 or more members, trustees will need to plan for their first Own Risk Assessment (ORA).

The Pensions Act 2004 was updated in January 2019, requiring trustees to establish and operate an ESoG, including internal controls, and that the system of governance must be proportionate to the size, nature, scale and complexity of the activities of the scheme. However, certain elements of the update would not become fully effective until TPR provided more information for the trustees in a code of practice. This information will now be incorporated in TPR's new single code of practice, which is currently expected in the first half of 2022 and the draft of the new code states the first ORA will need to be completed within 12 months of the publication of the code, and annually thereafter.

In the words of TPR, "the ORA is a substantial process, and the governing body (i.e. the trustee board) may need to expand its risk assessments to fulfil our expectations."

The PLSA has updated its Retirement Living Standards for the first time since they were established in 2019, to include Netflix subscriptions, a higher personal grooming budget and a higher eating out budget, all as a result of changing lifestyles in the wake of the COVID-19 pandemic.

The Retirement Living Standards are designed to help people visualise the kind of lifestyle they want when they retire and to understand the associated costs. The annual budget for the minimum standard has been increased by £700 for a single person to £10,900 and by £1,000 for a couple to £16,700; the annual budget for the moderate standard is increased by £600 for a single person to £20,800 and by £1,500 for a couple to £30,600; and the annual budget for the comfortable standard is increased by £600 for a single person to £33,600 and by £2,200 for a couple to £49,700.

Interestingly, with the festive season just passed, the PLSA has also calculated the types of festive food that people at each of these saving levels might be able to expect. According to the PLSA, an overall annual "celebration budget" per household was set by research discussion groups for each level of retirement lifestyle, with £50 for the minimum, £150 for moderate and £300 for comfortable. Assuming that Christmas would be the main celebration event for the individual, the PLSA allocated the following amounts for Christmas dinner expenditure from the annual budget: £39 for those saving enough for minimum levels of expenditure in retirement, £103 for those with a moderate lifestyle and £209 for comfortable households.

The Department for Work & Pensions (DWP) published a response to its consultation on 'simpler annual benefit statements' alongside statutory guidance to assist pension scheme trustees in complying with new requirements under amendments to the Disclosure Regulations. The amendments require automatic enrolment pension schemes providing money purchase benefits to issue simple annual benefit statements on one double-sided sheet of A4 (or an electronic equivalent when printed) from **1 October 2022.**

New regulations have been consulted on that will require trustees to ensure that members, who wish to access or transfer their pension savings, are first referred to ('nudged' towards) appropriate pensions guidance. The regulations will come into force from **June 2022.**

Pension scams regulations

Putting trustees in the 'driving seat'

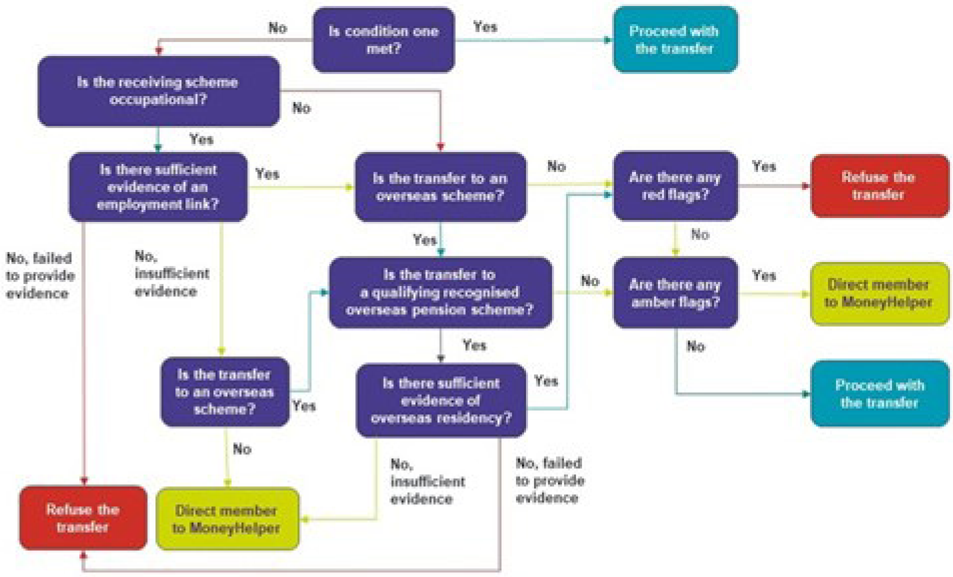
The DWP has published its response to its earlier consultation on pension scams – 'empowering trustees and protecting members', together with the final version of the Occupational and Personal Pension Schemes (Conditions for Transfers) Regulations 2021. Also, the Pensions Regulator has issued accompanying regulatory guidance on dealing with transfer requests under the new regime.

The new provisions, which restrict the right to a statutory pension transfer in certain cases, will come into force on 30 November 2021 and will apply to all statutory transfers where the date of the member's application for a statement of entitlement or request to transfer occurs on or after 30 November 2021. In practice, this means -

- For defined benefit (DB) transfers, where the member applies for a transfer quote on or after 30 November
- For defined contribution (DC) transfers, the new regime will apply where a member makes a written application to transfer on or after 30 November,

The TPR guidance, which sets out the process that should be followed for transfers from 30 November 2021, contains a useful 'transfer process decision tree' (accompanied by a transcript). The decision tree is reproduced at the end of this briefing note.

There are still some areas of uncertainty; in particular, Regulation 6(2) requires that a statutory transfer can only be made without contacting the member if the trustee can decide that certain amber and red flags are not present (see below). One of these amber flags is whether there is an overseas investment in the receiving scheme. Overseas investment is not defined. In almost all cases, the receiving scheme will have an overseas investment (even if just a fairly standard investment in global equity) and therefore a MoneyHelper referral would be required.



Condition 1. The first condition will be met where a transfer is to:

- a public service pension scheme as defined in section 1(1) Pension Schemes Act 1993
- an authorised master trust which appears on the Regulator's list of authorised schemes, or
- a collective money purchase scheme authorised by the Pensions Regulator.

Condition 2. Condition 2 is now made up of several elements.

- Employment or residency link
- Any red or amber flags?

Amber Flags	Red Flags
The member has not provided or cannot provide an employment link or overseas residency. There is evidence of high-risk or unregulated investments in the proposed receiving scheme. The proposed receiving scheme charges are unclear or high. The proposed receiving scheme's investment structure is unclear, complex, or unorthodox. Overseas investments are included in the scheme. There is evidence of a sharp or unusual rise in transfers involving the same proposed receiving scheme or adviser.	The member has failed to provide the required information. The member has not provided evidence of receiving MoneyHelper guidance. There is evidence that someone (e.g. the member's adviser) has carried out a regulated activity without the right regulatory status. There is evidence that the member requested a transfer after unsolicited contact. There is evidence that the member has been offered an incentive to make the transfer. There is evidence that the member has been pressured to make the transfer.

Helpful Links

The Occupational and Personal Pension Schemes (Conditions for Transfers) Regulations 2021 (legislation.gov.uk)

New regulations empower trustees to halt suspicious transfers | The Pensions Regulator

What to expect in 2022

With a number of changes that were expected in 2021 being pushed back, 2022 is going to be a very busy time for pension scheme trustees, sponsoring employers and their advisers. In this article, we attempt to set out, chronologically, our predictions for the key developments in pensions law and practice over the next 12 months.

January

Trustees of 'specified schemes' (broadly, a DC scheme with assets of less than £100 million), for their first scheme year that ends after 31 December 2021 and at intervals of no more than one year thereafter, are required to carry out a more detailed value for members (VfM) assessment. The outcome of the VfM assessment must be reported in the annual chair's statement and must be reported to The Pensions Regulator (TPR) via the annual scheme return.

'Spring'

The DWP is due to consult shortly on legislation for the pensions dashboard, which will set out the phasing process and the data schemes will be required to submit. It is important schemes make progress preparing their data this year to ensure they are 'dashboard ready'.

April

Regulations introducing a de minimis pot size (set at £100) below which flat fees cannot be charged are intended to come into force on 6 April 2022. Also, the Government has consulted on two other proposals; viz, a proposal to move to a single, permitted universal charging structure for use within the default fund of qualifying DC schemes used for auto-enrolment; and a proposal to remove well-designed performance-based fees from the list of charges which are subject to the charge cap.

Under the Pension Schemes Act 2021, important changes, also expected to take effect from April 2022, are made to the existing notifiable events regime with the intent of alerting TPR and trustees at an earlier stage to financial decisions that could impact pension schemes.

Draft regulations have been consulted on that will require trustees to ensure that members, who wish to access or transfer their pension savings, are first referred to ('nudged' towards) appropriate pensions guidance. The regulations are expected to come into force from June 2022.

'Summer'

The Government is expected to consult on draft regulations setting out the detail of the new statutory funding regime for DB pension schemes. Also, TPR has announced that it will be publishing a consultation on its draft code of practice in "late summer 2022". The new regime is not likely to take effect before 2023.

TPR has consulted on the first phase of its work on combining the content of its 15 current codes of practice into a single, 'super code'. The new code should become effective by summer 2022. This will also trigger the requirement for trustees of schemes with 100 or more members to carry out an own risk assessment of the scheme within the following 12 months.

October

From 1 October 2022, schemes with £1 billion or more in assets will be required to align governance processes and disclosures with the Task Force on Climate-related Financial Disclosures (TCFD) recommendations. The Government has also consulted on proposed amendments to those requirements, which will mean that trustees must measure and report on the extent to which their investments are aligned with the Paris Agreement goal of pursuing efforts to limit the global average temperature increase to 1.5°C above pre-industrial levels. It is expected that these changes will be effective from 1 October 2022 too.

New regulations will, also from 1 October 2022, require DC schemes used for auto-enrolment to provide annual benefit statements not exceeding one double-sided sheet of A4 paper when printed. Also, a consultation is expected on a mandatory approach to the timing of annual benefit statements (a so-called "statement season").

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